IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21042 of 2004

Between:

Nirudyoga Municipal Scavengers Swaschanda Seva Samstha, Chittoor, rep. by its Vice-President, B. Sudhakaraiah,
S/o.Devaiah, R/o. D.No.8-536, Thotapalem, Gandhi Road, Chittoor, Chittoor District.

..... PETITIONER

AND

1 The Commissioner of Religious Endowments, Govt of A.P., Hyderabad.
2 The Executive Officer & Regional Joint Commissioner, Swayambhu Sri Varasiddi Vinayakaswamyvari - Devasthanam, Kanipakam, Irala Mandal, Chittoor District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate Writ, Order or direction more particularly one in the nature of writ of certiorari calling for the records pertaining to the tender notification vide RC.No.J1/337/2004 dt. 15.10.2004 and declare the action of the 2nd respondent in calling for fresh tenders vide RC.No. J1/1672/2004 dt. 9.11.2004, without issuing letter of Award in pursuance of the confirmation of the petitioner's tenders dt. 28.10.2004 as illegal, arbitrary, violative of the principles of natural justice, apart from being violative of Art. 14 & 21 of the Constitution of India and quash the fresh tenders vide RC.No.J1/1672/2004 dt. 9.11.2004 and consequently direct the 2nd respondent to issue letter of Award for labour supply Contract in favour of the petitioner.

Counsel for the Petitioner: MR.K.KISHOR KUMAR REDDY

Counsel for Respondent No.1: G.P. for Endowments

Counsel for Respondent No.2: MR.V.VENUGOPALA RAO

The Court at the stage of admission made the following ORDER:

This writ petition is filed challenging the action of the respondents in not confirming the tender submitted by the petitioner in pursuance of the tender notice dated 15-10-2004 for supply of sanitary workers.

The petitioner is an association of unemployed municipal sanitary workers of Chittoor District. It emerged as the successful tenderer for supply of sanitary staff to the second respondent-Devasthanam for the period from 01-05-2004 to 31-10-2004. For the subsequent period, the Devasthanam issued tender notice dated 15-10-2004. The petitioner emerged as the lowest tenderer and was, in fact, addressed a letter to furnish certain particulars. The grievance of the petitioner is that even though it emerged as lowest tenderer, the respondents have invited tenders once again for the same period. The petitioner seeks appropriate directions to the respondents to finalise the tender in its favour.

In the counter-affidavit filed on behalf of the respondents, it is admitted that the rates quoted by the petitioner are found to be lowest. It is stated that the rates quoted by the petitioner was so low, that acceptance of the same would result in violation of the provisions of the Minimum Wages Act and that the petitioner did not produce the requisite licence under the Contract Labour Act and in that view of the matter, the tenders were called for once again.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

There is no dispute that the petitioner emerged as the lowest tenderer. It is settled principle of law that a lowest tenderer does not hold any inherent right to insist on acceptance of the same. It is always in the discretion of the tendering authority or agency whether to accept or not to accept a tender. The rates quoted in a tender alone are not the guiding factors. It is not in dispute that the rates quoted and accepted for the previous year for the same work was Rs.46.00 per individual

per day, whereas the one quoted by the petitioner at present is Rs.9.99 Ps. It only shows the extent to which the unhealthy competition has drifted. The amount quoted by the petitioner is far less than the wages prescribed under the Minimum Wages Act. Extracting work from an individual without payment of the minimum wages is punishable under the said Act. Further, the petitioner was required to furnish the licence and it is stated that he did not comply with the same. Under these circumstances, it cannot be said that the action taken by the respondents is illegal.

Hence, the writ petition is dismissed. It is, however, left open to the petitioner to submit a tender once again in response to the notification issued by the respondents. It is stated that the time expires by 4.00 p.m. today. This Court is of the opinion that this petitioner deserves to be given an opportunity to participate in the tenders. Learned counsel for the respondents undertakes to inform his clients to defer the closing time of submission of tenders up to 6.00 p.m. today and in such an event, it shall be open to the petitioner to submit its tender. If the petitioner submits its tender and it is found to be in order, it shall be considered along with other tenders received for the said work.

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22-11-2004

kdl

To

1 The Commissioner of Religious Endowments, Govt of A.P., Hyderabad.
2 Two C.Cs. to the Government Pleader for Endowments, High Court Buildings, A.P., Hyderabad, (OUT).

3. Two C.D. Copies.

4. One CC to Mr.V.Venugopala Rao, Advocate